

**UK NATIONAL CONTACT POINT  
FOR THE OECD GUIDELINES FOR  
MULTINATIONAL ENTERPRISES**

Follow up statement after  
recommendations in complaint  
from Privacy International  
against Gamma International

FEBRUARY 2016

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# Background

## OECD Guidelines for Multinational Enterprises

1. The Guidelines are voluntary principles for responsible business conduct in areas including employment, human rights and the environment. As an OECD member government, the UK is required to maintain a National Contact Point (NCP) to promote the Guidelines and to consider complaints that multinational enterprises based in the UK, or operating there, have breached the Guidelines.
2. The UK NCP is based in the Department for Business, Innovation and Skills (BIS) and funded by BIS and the Department for International Development (DfID). A Steering Board including members from business, trade unions and civil society has general oversight of the NCP.

## Follow up to Final Statements by the UK NCP

3. Where a Final Statement includes recommendations, or where an agreement between parties provides for it, the UK NCP approaches parties at a specified date to request an update. The NCP then publishes a further statement reflecting the parties' responses and any further conclusions of the UK NCP.

More details of the NCP's process and statements are at <https://www.gov.uk/uk-national-contact-point-for-the-organisation-for-economic-co-operation-and-development-oecd-guidelines-for-multinational-enterprises>.

# UK NCP recommendations to Gamma International

4. The UK NCP's Final Statement on the complaint from Privacy International against Gamma International can be found at: <https://www.gov.uk/government/publications/uk-ncp-final-statement-privacy-international-and-gamma-international-uk-ltd>. The Final Statement made the following recommendations to Gamma International UK Limited and also invited the wider Gamma Group to note them:

*The NCP recommends that the company:*

- a) *takes note of international evidence and UK government advice and not just sanctions, in its due diligence*
- b) *participates in industry best practice schemes and discussions*
- c) *reconsiders its communications strategy to offer the most transparent and consistent engagement it considers appropriate to its sector*
- d) *Where it identifies that its products may have been mis-used, co-operates with official remedy processes used by victims of the misuse.*

## Response from the parties

5. The UK NCP contacted the parties' representatives by email on 20th November 2015 and invited them to provide an update by 11th December 2015. An update was received from Privacy International on 11th December. No update or other communication has been received from Gamma International UK Limited<sup>1</sup>. The UK NCP proceeded to draft this Follow Up Statement on the basis of Privacy International's update. A copy of the Statement has been sent to the wider Gamma Group.

## Complainant's update

6. Most of the information in Privacy International's update relates to additional information that has become public since the UK NCP's Final Statement, some of which relates to earlier events.
7. In this context, Privacy refers to a report of Bahrain Watch (a co-complainant) in August 2014, after the UK NCP had drafted its Final Statement. This report referred to a data leak from Gamma that appeared to show communications with a Bahraini customer from 2010-2012. Privacy International notes that new information that has emerged provides further support for a conclusion that Gamma did supply its product to Bahraini government agencies at the time of the 2011 unrest in Bahrain, as the complaint alleged<sup>2</sup>. Privacy also refers to its own October 2015 report about links between Gamma and Ugandan government agencies between 2011 and 2013.
8. In relation to events taking place since the Final Statement, Privacy notes that criminal complaints it raised against Gamma in February 2014 and October 2014 remain under investigation by the UK's National Crime Agency (NCA). Privacy also notes that Gamma refused a request from Privacy to provide a copy of its human rights policy in connection with Privacy's October 2015 report on Uganda, and that Gamma also refused a request for the policy from the BBC (in connection with BBC Newsnight coverage of the Uganda report). Privacy has not been able to find any reference to a human rights policy on the Gamma Group website.

## UK NCP Conclusions

9. On the basis of the information received – and in the absence of an update from Gamma - the UK NCP can only conclude that Gamma International UK Limited has made no progress (or effort) towards meeting the recommendations made in the Final Statement. The UK NCP therefore sees no reason to change the view reached in its Final Statement that Gamma's behaviour is inconsistent with its obligations under the OECD Guidelines. The UK NCP regrets Gamma's failure to engage.

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<sup>1</sup> As the Final Statement records, the UK NCP understands that Gamma International UK Limited stopped actively trading in 2013, but remains an active company. The UK NCP has not been advised of any change in the company's status or contact details.

<sup>2</sup> The UK NCP said in the Final Statement that it could not verify whether a supply had taken place.

10. The UK NCP notes that guidance is available to cyber security sector companies on applying responsible business standards. The UK produced cyber exports guidance in 2014 and the UK NCP itself held a workshop on responsible business in the ICT sector in July 2015. Contributors at this event included NCPs, NGOs, governments and companies (including the security sector). Contributors recognised the real challenges faced by companies providing security-linked ICT products, but none suggested that it was impossible to develop and apply good practice in this area.
11. Gamma's failure to engage is therefore an individual choice rather than an unavoidable result of the nature of its business. It is a choice that is likely to leave Gamma open to further complaints and challenges, as well as to negative assumptions from stakeholders.

**February 2016**

**UK National Contact Point for the OECD Guidelines for Multinational Enterprises**

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